

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

BRIAN K. GARRIES, a/k/a,  
Pharaoh O. Nkosi  
Petitioner

v.

DONALD ROMINE, Warden,  
Respondent

CIVIL NO. 1:CV-01-1119

(Judge Kane)

**FILED  
HARRISBURG**

SEP 12 2002

MARY E. D'ANDREA, CLERK  
Per.                       
DEPUTY CLERK

O R D E R

Petitioner, formerly an inmate confined in the United States Penitentiary, Lewisburg, Pennsylvania<sup>1</sup>, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Named as respondent is Donald Romine, Warden at USP-Lewisburg.

In his petition, Garries argues ineffective assistance of counsel during the appeals of his 1983 general court-martial for the premeditated murder of his wife, Camille Garries, who was seven months pregnant at the time of the murder. (Doc. No. 1).

In response to the petition, respondent argues that because Garries' claims of ineffective assistance of counsel have been given full and fair consideration by the military tribunals, the petition should be denied. See Burns v. Wilson, 346 U.S. 137, 142 (1953). Respondent further argues that to the extent that Garries'

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<sup>1</sup>Garries is now confined in the United States Penitentiary, Pollock, Louisiana.

petition raises new claims of ineffective assistance of counsel, these should be dismissed based on the failure to raise them before the United States Air Force Court of Military Review and the United States Court of Military Appeals. See Watson v. McCotter, 782 F.2d 143, 145 (10<sup>th</sup> Cir. 1986), cert. denied, 476 U.S. 1184 (1986). (Doc. No. 14, response).

On August 14, 2002, petitioner filed a "Motion to Expedite the Proceedings", in which he "agrees with the government as to issues not exhausted and that petition is a mixed petition, that should be dismissed so that he can exhaust such issues with the military". (Doc. No. 20). Petitioner requests that "in the interest of justice petitioner's petition should be dismissed to allow him the opportunity to exhaust all issues before the military courts". Id.

NOW, THIS <sup>11<sup>th</sup></sup> DAY OF *Sept*, 2002, IT IS HEREBY  
ORDERED THAT:

1. Petitioner's motion to expedite proceedings, (Doc. No. 20) in which petitioner seeks to have his case dismissed without prejudice, is granted.
2. The Clerk of Court is directed to close this case.

  
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YVETTE KANE  
United States District Judge

YK:dlb